



Correspondence from Philip L. Ellison, MBA, JD, Esq
Business Counselor & Attorney at Law
pellison@olcplc.com

April 28, 2019
SENT VIA ECF/CM

Chambers, Honorable Paul L. Maloney
US District Court for the Western District of Michigan
137 Federal Bldg
410 W. Michigan Ave
Kalamazoo, MI 49007

Re: Stevens et al. v Mack et al.
Case No.: 18-cv-757

Your Honor:

On July 9, 2019, my clients, as plaintiffs, filed a federal civil rights action which has alleged a single count claiming violations of the First Amendment to the United States Constitution. In lieu of an answer, each defendant filed to dismiss pursuant to FRCP 12(b)(6) for various reasons which we opposed as legally erroneous and perhaps even frivolous. My office also filed a motion to strike certain exhibits attached to the Rule 12(b)(6) motions. All briefing has been fully submitted and completed since October 10, 2018. Since that time, there has been no ruling or direction from the Court on the outcome or status of those motions. The motions have remained pending for more than half a year. The Court has also not set or held a status, pretrial, or Rule 16 conference. A previously-made telephone call to the Court's case manager did not result a timeline of resolution.

While undoubtedly all cases pending before the Court are important, this matter involves the First Amendment. A "violation of First Amendment rights, even for a short time, causes *irreparable* harm." *Baker v. Adams County/Ohio Valley School Bd.*, 310 F.3d 927, 930 (6th Cir. 2002) (citing *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). While some institutional delay is, of course, expected in court processes, I no longer have any explanation to provide why this case has not proceeded while at the same time irreparable harm continues to befall the plaintiffs by denial of what they (and I) believe are their First Amendment rights.

Given that the Federal Rules of Civil Procedure are silent on a type of appropriate motion or relief that could be filed/sought, I have opted to provide

Great Lakes Bay Region
PO Box 107
Hemlock, MI 48626
Direct (989) 642-0055
Fax (888) 398-7003

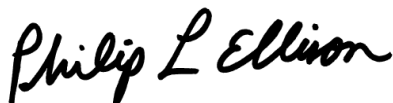
this correspondence to this Court to respectfully inquire and perhaps be directly informed how and when the Court plans to proceed on this case. My clients strongly desire to get access to ACRs to allow them exercise their other First Amendment rights, including to protest the way in which their cases were handled and to petition the government for redress of their grievances related. A prior decision of the Midland County Circuit Court teaches that this Federal Court is only place to seek that redress.

The Court is implored to know that this letter is sent with the highest level of deference and respect to this Court, its staff, and the institution. But the litigants are feeling left out in the dark by my inability to provide answers on timing. If the Court desires, Plaintiffs can file and would be willing to file a motion for a preliminary injunction. However, it has been my hope and expectation that a ruling would be coming any day and we would be proceeding in the normal course without the need to seek to divert time and resources to such extraordinary relief when expected discovery will be short.

As such, Plaintiffs respectfully seek to understand, i.e. a timeline, on how this Court will proceed on this matter. If more time is needed to resolve the pending motions, Plaintiffs would propose alternatives to waiting. Options include referring the matters to the magistrate, allowing limited discovery to proceed, or seek a preliminary injunction. However, they (through my representation) do not wish to further clog the docket with additional motions for such relief if a decision is imminent.

Thank you for your time and consideration.

Best regards,



Philip L. Ellison, MBA, JD, Esq.
Attorney at Law / Counsel for Plaintiffs

CC: All Other Counsel of Record (via ECF/CM)
Clients (via US mail)
Client Litigation File